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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case No. 3:23-md-03084-CRB

**DEFENDANTS UBER
TECHNOLOGIES, INC., RASIER, LLC,
AND RASIER-CA, LLC'S MOTION TO
ENFORCE THE MARCH 26, 2025
ORDER (ECF NO. 2628)**

This Document Relates to:

*Jane Doe LS 293 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-04364-CRB

*Jane Doe LS 231 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-04367-CRB

*Jane Doe LS 144 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-04388-CRB

*Jane Doe LS 112 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-05286-CRB

*Jane Doe LS 284 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-05363-CRB

*Jane Doe LS 126 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-05370-CRB

*Jane Doe LS 265 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-05377-CRB

*Jane Doe LS 200 v. Uber Technologies,
Inc., et al.*, No. 3:23-cv-05387-CRB

Judge: Honorable Charles R. Breyer
Date: July 11, 2025
Time: 10:00 a.m.
Courtroom: 6 – 17th Floor

1 *Jane Doe LS 66 v. Uber Technologies,*
Inc., et al., No. 3:23-cv-05414-CRB

2 *Jane Doe LS 317 v. Uber Technologies,*
Inc., et al., No. 3:23-cv-05424-CRB

3 *Jane Doe LS 234 v. Uber Technologies,*
Inc., et al., No. 3:23-cv-05433-CRB

4 *Jane Doe LS 191 v. Uber Technologies,*
Inc., et al., No. 3:23-cv-05573-CRB

5 *Jane Doe LS 273 v. Uber Technologies,*
Inc., et al., No. 3:23-cv-05946-CRB

6 *Jane Doe LS 470 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05207-CRB

7 *Jane Doe LS 232 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05327-CRB

8 *Jane Doe LS 373 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05328-CRB

9 *Jane Doe LS 462 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05329-CRB

10 *Jane Doe LS 226 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05330-CRB

11 *Jane Doe LS 166 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05331-CRB

12 *Jane Doe LS 122 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05332-CRB

13 *Jane Doe LS 202 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05333-CRB

14 *Jane Doe LS 416 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05335-CRB

15 *Jane Doe LS 305 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05338-CRB

16 *Jane Doe LS 201 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05354-CRB

17 *Jane Doe LS 189 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05379-CRB

18 *Jane Doe LS 272 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05390-CRB

19 *Jane Doe LS 199 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05402-CRB

20 *Jane Doe LS 279 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05420-CRB

21 *Jane Doe LS 139 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05527-CRB

22 *Jane Doe LS 487 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05611-CRB

1 *Jane Doe LS 141 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05634-CRB

2 *Jane Doe LS 423 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05676-CRB

3 *Jane Doe LS 491 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05678-CRB

4 *Jane Doe LS 441 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05751-CRB

5 *Jane Doe LS 518 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05761-CRB

6 *Jane Doe LS 319 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05800-CRB

7 *Jane Doe LS 484 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05824-CRB

8 *Jane Doe LS 4 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05861-CRB

9 *Jane Doe LS 368 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05898-CRB

10 *Jane Doe LS 274 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05902-CRB

11 *Jane Doe LS 359 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05908-CRB

12 *Jane Doe LS 342 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05913-CRB

13 *Jane Doe LS 304 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05914-CRB

14 *Jane Doe LS 369 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05915-CRB

15 *Jane Doe LS 269 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05922-CRB

16 *Jane Doe LS 93 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05925-CRB

17 *Jane Doe LS 7 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05926-CRB

18 *Jane Doe LS 504 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05928-CRB

19 *Jane Doe LS 180 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05936-CRB

20 *Jane Doe LS 119 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-05937-CRB

21 *Jane Doe LS 197 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-06003-CRB

22 *Jane Doe LS 314 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-06016-CRB

1 *Jane Doe LS 188 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-06022-CRB

2 *Jane Doe LS 230 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-06026-CRB

3 *Jane Doe LS 209 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-06033-CRB

4 *Jane Doe LS 532 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-06927-CRB

5 *Jane Doe LS 534 v. Uber Technologies,*
Inc., et al., No. 3:24-cv-07142-CRB

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8
9 **NOTICE OF MOTION TO ENFORCE**

10 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

11 **NOTICE IS HEREBY GIVEN** that on July 11, 2025 at 10:00 AM, or as soon thereafter as
 12 counsel may be heard, before the Honorable Charles R. Breyer in Courtroom No. 6 on the 17th Floor
 13 of the San Francisco Courthouse for the above-entitled Court, located at 450 Golden Gate Avenue,
 14 San Francisco, CA 94102, Defendants Uber Technologies, Inc., Raiser, LLC, and Raiser-CA, LLC
 15 (collectively, “Uber”) will, and hereby do, move this Court for an order dismissing without prejudice
 16 the claims of the above-listed Plaintiffs on the grounds that Plaintiffs have failed to prosecute their
 17 cases and have failed to comply with the Court’s discovery orders.

18 This Motion is made pursuant to the March 26, 2025 Order (ECF No. 2628); Pretrial Order
 19 No. 10 (ECF No. 348); Judge Cisneros’s December 19, 2024 Order (ECF No. 1995); and Rules
 20 16(f)(1)(C), 37(b)(2)(A)(v), and 41(b) of the Federal Rules of Civil Procedure. This Motion is based
 21 on this Notice; the attached Memorandum of Points and Authorities; the concurrently filed Declaration
 22 of Michael B. Shortnacy; the concurrently filed Proposed Order; all evidence, pleadings, and papers
 23 filed herewith; the previous Motion to Dismiss briefing regarding the same (ECF Nos. 2358, 2479);
 24 the entire file in this coordinated action; any Reply that may be filed in support of this Motion; and
 25 any other arguments or evidence that may be presented to the Court in support of this Motion.

1 DATED: May 16, 2025

Respectfully submitted,

2 **SHOOK HARDY & BACON L.L.P.**

3 By: /s/ Michael B. Shortnacy

4 Michael B. Shortnacy

5 **SHOOK, HARDY & BACON L.L.P.**

6 ALYCIA A. DEGEN

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8 *Attorneys for Defendants*

UBER TECHNOLOGIES, INC.,

9 RASIER, LLC, and RASIER-CA, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

The final deadline for the Levin Simes LLP (“Levin Simes”) Plaintiffs to submit Plaintiff Fact Sheets (“PFS”) has come and gone, and 47 Plaintiffs failed to file the required PFS by the final April 9, 2025 deadline. These 47 litigants have decided to withdraw from the litigation process entirely, refusing to participate or adhere to any of the Court’s many orders on this issue. As a result, these 47 Plaintiffs’ cases should now be dismissed as per this Court’s March 26, 2025 Order (“March 26 Order”). ECF. No. 2628 at 5. Dismissal of these 47 cases is a justified consequence of Plaintiffs continued non-compliance.

Uber now requests that the Court enforce its March 26 Order and dismiss without prejudice the 47 cases identified in the accompanying Michael Shortnacy Declaration.

BACKGROUND

On March 26, 2025, this Court entered an order following briefing on Uber’s Motion to Dismiss.¹ ECF. No. 2628 at 5. That Order provided that “[e]ach Plaintiff subject to Defendants’ Motion must provide a complete and verified Plaintiff Fact Sheet within 14 days of this Order.” *Id.* As a result, the Levin Simes Plaintiffs subject to the March 26 Order were required to submit their PFS by April 9, 2025. *See id.* If a complete and verified PFS was not provided by the final April 9, 2025 deadline, then the “Court will dismiss without prejudice the claims of any Plaintiff who does not comply with Paragraph 1 of this Order.” *Id.*

The March 26 Order also required Uber to “submit a declaration within 21 days of this Order, identifying which, if any, Plaintiffs have not complied with the Court’s Order as of that date.” On April 16, 2025, counsel for Uber submitted the Declaration of Michael B. Shortnacy (“Uber Declaration”) which provided a list of Plaintiffs subject to the Court’s March 26 Order who had not submitted a PFS.

In addition, the March 26 Order also provided that if Levin Simes “disagrees with the inclusion of any Plaintiff(s) identified in Uber’s declaration, Levin Simes shall submit a declaration 28 days of

¹ For a more robust background on the Levin Simes Plaintiffs failure to provide PFS, see Uber’s background section from its previous Motion to Dismiss (ECF No. 2358 at 3-5).

this Order, identifying the date when such Plaintiff(s) submitted a complete and verified Plaintiff Fact Sheet.” ECF No. 2628 at 5. On April 23, 2025, Levin Simes submitted the Declaration of William A. Levin (“Levin Simes Declaration”). ECF No. 2844. The Levin Simes Declaration provided a list of eleven (11) Plaintiffs that allegedly submitted a complete and verified PFS. *Id.* at 2. Two of the eleven Plaintiffs listed in the Levin Simes Declaration listed the submission date of their PFS after the April 9, 2025 deadline. *See id.* (“Jane Does LS 191, submitted April 11, 2025” and “Jane Doe LS 269, submitted April 22, 2025”).² Additionally, the Levin Simes Declaration provided that four Plaintiffs “should not be dismissed as they have not been able to complete their PFS due to incarceration.” *Id.* at 2-3. Finally, the Declaration stated that three of the plaintiffs were “deceased,” but does not take a position as to whether these plaintiffs should be dismissed. *See id.* at 3.

ARGUMENT

I. The Court Should Enforce Its March 26, 2025 Order

The Levin Simes Plaintiffs had an abundant amount of time and opportunities to cure their non-compliance. On March 26 the Court issued a final order compelling Plaintiffs to submit the overdue discovery within 14 days of the Court’s order, and providing that the Court will dismiss without prejudice the case of any Plaintiff who fails to comply with the extended deadline. That deadline—April 9, 2025—has come and gone and 47 Plaintiffs failed to submit a timely PFS. The principal facts are entirely undisputed: there are 47 Plaintiffs who have ignored the Court’s multiple orders, failed to provide required discovery, and, by Levin Sime’s own admission, are not engaged with this litigation.

Despite a clear final notice and deadline for providing Plaintiff Fact Sheets, 47 Levin Simes Plaintiffs have failed to provide Court-ordered discovery and have prejudiced Uber in the process. Now, the Court should enforce its March 26 Order and take the same approach as other MDL courts and dismiss those Plaintiffs’ claims.³ This action is warranted given Plaintiffs’ disregard of their

² At this time, Uber will not seek the dismissal of these two Plaintiffs who filed their PFS after the final April 9, 2025 deadline. However, Uber does not waive its right to seek dismissal of these two cases for failure to fully complete the PFS and/or other deficiencies.

³ *E.g., In re Phenylpropanolamine (PPA) Prods. Liab. Litig. (In re PPA)*, 460 F.3d 1217, 1232–34 (9th Cir. 2006) (affirming dismissal for failure to submit required fact sheets); *In re Bextra & Celebrex Mktg. Sales Pracs. & Prods. Liab. Litig. (In re Bextra)*, 2007 WL 136625, at *2 (N.D. Cal. Jan. 12,

discovery obligations.

a. The Incarcerated and Deceased Levin Simes Plaintiffs Should Be Dismissed For Failing to Comply With The Court's Order

For the first time, in submission with their Declaration following the Court's March 26 Order, Plaintiffs notified Uber that four of the Plaintiffs were incarcerated, and three of the Plaintiffs were deceased. *See* Decl. of William A Levin, ECF No. 2844 at 2-3. Neither of these situations excuses these Plaintiffs from failing to submit the court-ordered discovery.

"Rule 37 sanctions, including dismissal, may be imposed where the violation [of a court order] is 'due to willfulness, bad faith, or fault of the party.'" *In re PPA*, 460 F.3d at 1233 (quoting *Fair Hous. of Marin v. Combs*, 285 F.3d 899, 905 (9th Cir. 2002)). "Disobedient conduct not shown to be outside the litigant's control meets this standard." *Id.* (quoting *Fair Hous.*, 285 F.3d at 905). The Plaintiffs at issue in this motion have willfully violated PTO 10 and the Court's March 26 Order, and they have not demonstrated that it was impossible for them to comply. Plaintiffs Declaration says nothing about the incarcerated or deceased plaintiffs' estates ability to comply with the Court's discovery orders. In fact, Plaintiffs' Declaration provides zero information regarding the steps Levin Simes has taken to complete a PFS for these individuals. There is no dispute then that each of these Plaintiffs has, in fact, blown the deadline under the PTO 10 to provide a Plaintiff Fact Sheet by several months, as well as the Court's final April 9, 2025 deadline. As a result, dismissal without prejudice is thus warranted under Rule 37 for these incarcerated and/or deceased Plaintiffs. *In re PPA*, 460 F.3d at 1233.

2007) (Breyer, J.) (ordering dismissal for failure to submit required fact sheets); *In re Taxotere (Docetaxel) Prods. Liab. Litig. (In re Taxotere)*, 966 F.3d 351, 354 (5th Cir. 2020) (affirming dismissal); *In re Guidant Corp. Implantable Defibrillators Prods. Liab. Litig.*, 496 F.3d 863, 865–66 (8th Cir. 2007) (affirming dismissal in cases where plaintiffs failed to submit timely fact sheets); *In re Gen. Motors LLC Ignition Switch Litig.*, 2019 WL 12048517, at *2 (S.D.N.Y. Sept. 9, 2019) (ordering dismissal); *In re C.R. Bard, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 2018 WL 1109553, at *2 (S.D.W. Va. Feb. 28, 2018) (same); *In re Lipitor (Atorvastatin Calcium) Mktg., Sales Prac. & Prods. Liab. Litig.*, 2015 WL 12844447, at *3 (D.S.C. June 19, 2015) (same); *In re Plavix Mktg., Sales Prac. & Prods. Liab. Litig.* (No. II), 2015 WL 12746199, at *2 (D.N.J. Sept. 1, 2015) (ordering dismissal for failure to submit plaintiff profile form); *In re Fosamax Prods. Liab. Litig.*, 2010 WL 2465497, at *1 (S.D.N.Y. June 15, 2010) (same); Pretrial Order No. 252: Granting Mot. to Dismiss for Failure to Submit PFS at 1, *In re Roundup Prods. Liab. Litig.*, No. 3:16-md-02741-VC (N.D. Cal. Sept. 27, 2021), ECF No. 13858.

CONCLUSION

For the foregoing reasons, the Court should enforce its March 26, 2025 Order and dismiss without prejudice the 47 cases that Plaintiffs have failed to submit a Plaintiff Fact Sheet.

DATED: May 16, 2025

Respectfully submitted,

SHOOK HARDY & BACON L.L.P.

By: /s/ Michael B. Shortnacy
Michael B. Shortnacy

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